

Testimony By Mr. Dan Stein

Federation for American Immigration
Reform

President

Mr. Chairman, Madam Ranking
Minority Member and members of the Committee, I am Dan Stein, President of the Federation for American Immigration Reform. FAIR is a national, non-profit public interest organization representing more than 200,000 members and activists working to end illegal immigration, to restore moderate legal immigration and to reform our immigration laws to bring them into accord with the national interest. Thank you for the opportunity to present the views of the Federation for American Immigration Reform (FAIR) on the growing threat that our nation's voting laws are becoming compromised by illegal alien registration and voting.

There is widespread awareness that illegal immigration is a massive and growing problem in the United States. Estimates of the illegal population vary between 11 and 20 million. FAIR believes there are likely between 11 to 13 million illegal residents, but the number could certainly be higher. In addition to the illegal aliens already in the country, the Census Bureau estimates that the illegal alien population is growing by a minimum of 500,000 per year.

Combining the number of legal and illegal aliens, there are at least 26 million non-U.S. citizens in the United States at any given time. The bulk of them are legal and illegal residents (22 million), and about 1.6 million are tourists or temporary visitors from Canada or Mexico. Many of the remaining 2.4 million visitors, such as students and temporary workers, are on long-term visas.

As we all know, there is a great demand in our society by anyone of working age to have a driver's license. States have established a wide spectrum of laws governing the issuance of those licenses. While some require and verify evidence that an applicant is either a U.S. citizen or a foreigner in the country legally, other states deliberately or inadvertently create loopholes that allow illegal aliens to gain access to a license or identity card. Seven states allow registrants to use an individual taxpayer identification number (ITIN) in lieu of a Social Security number (SSN) when they register.[1] The ITIN is available to noncitizens, including illegal aliens for purposes of tax withholding. Another 11 states have provisions that allow illegal aliens to obtain driver's licenses, such as neglecting to verify the authenticity of the SSN.

With the passage of the National Voter Registration Act of 1993 (NVRA) ? known as the Motor-Voter law ? the process of registering to vote became nearly automatic for anyone applying for a state

driver's license. Under this law, the information supplied by the applicant for a license doubles as information for voter registration unless the applicant indicates that he/she does not want to be registered to vote.[2] With driver's licenses made available by several states to aliens (both legal and illegal), it seems likely that voter rolls now contain large numbers of non-citizens ? enough in close elections to change the outcome if those aliens illegally vote.[3]

Two other offshoots from the 1993 NVRA compound the potential for non-citizen voting to corrupt the election process. Absentee voting has become ubiquitous, so there is no opportunity for the elections officials to challenge the voter in person as a possible illegal voter or to monitor the voting to assure that the voter is voting independently. And, those who would challenge the eligibility of voters are constrained by protections against intimidation of voters.

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act, making it a federal crime for non-citizens to vote in any federal election (or state election, unless authorized by state law). As a penalty, ineligible non-citizens who knowingly vote may be deported. Additionally, a non-citizen who falsely claims to be a United States citizen is in violation of this law.

Despite these penalties, there are numerous documented reports of non-citizens voting.[4] [5] Mr. Chairman, let me discuss some of the evidence of electoral fraud.

1996 Election - California

One of the most extensively documented cases of illegal voting was in California in 1996. Loretta Sanchez, a Democrat, defeated Republican incumbent Robert Dornan by 984 votes. Dornan called for an investigation of alleged illegal voting by noncitizens. According to Congressional Quarterly, a Washington, DC newspaper that focuses on developments in Congress, "Task force Chairman [U.S. Representative] Vernon J. Ehlers, R-Mich., said investigators had found concrete evidence of 748 illegal votes by noncitizens, not enough to throw Sanchez's victory into doubt."

2000 Election - Florida

In the 2000 election, there were 11 states carried by President Bush that had small enough winning vote margins that voting by noncitizens could have tipped the results to Vice President Gore. Those states were Colorado, Florida, Georgia,

Missouri, Nevada, New Hampshire, North Carolina, Ohio, Tennessee, Texas, and Virginia. A switch of three votes in the Electoral College from Bush to Gore would have reversed the outcome of that election, so the voting of enough noncitizens to reverse the outcome in any one of those 11 states would have reversed the final outcome.

In Florida, with more than 1.5 million noncitizens of voting age, only 540 of them would have had to vote (or 540 more ineligible voters than may actually have voted) for Gore to reverse the Presidential winner.[6] In fact, election observers reported that a "sizable number" of votes may have been cast by ineligible felons, illegal immigrants, and non-citizens.[7]

2004 Election - Wisconsin

More recently, FAIR obtained evidence of efforts by an ethnic advocacy group to get non-citizens to register to vote. FAIR enlisted the aid of two immigration reform activists who posed as illegal aliens attempting to register to vote. They were able to register in two Wisconsin counties, with the assistance of an organization known as Voces de la Frontera, in spite of the fact that the two individuals presented themselves as noncitizens. The Wisconsin case involved the registration of non-citizens residing legally in the U.S., but it might just as easily have involved illegal residents.

2004 Investigation - New York

Two years ago, DMV officials in New York, a state that supposedly does not permit illegal aliens to obtain driver's licenses, found that when they retroactively checked the Social Security Numbers provided by driver's license applicants, approximately 300,000 applications that had false or repeat numbers. This investigation did not study how many of these persons who were presumably in large measure illegal aliens fraudulently obtaining the state license also obtained at the same time registration as a voter. It seems reasonable to assume, however, that there may have been many thousands of such cases. And, while state officials began an effort to rescind the driver's licenses, there was no similar effort to eliminate any of the possible voter registrants from the voter rolls.

2005 Investigation - Utah

In Utah, Legislative Auditor General John Schaff said in a February 8, 2005 report to the President of the Utah Senate that more than 58,000 illegal

immigrants had Utah drivers' licenses, nearly 400 of them used their license to register to vote in Utah, and a sampling of that group revealed at least 14 actually voted in an election. The state authorities had verified with the U.S. Department of Homeland Security that only 5 of those with suspicious registration to vote were naturalized U.S. citizens.

Other Indications of Illegal Voter Registration

Hawaiian Election officials found 543 Oahu residents who were not U.S. citizens had registered to vote. The officials speculated a number of factors may have resulted in the voter irregularities, including language barriers and the ease of voter registration.[8]

Instances are periodically reported of the discovery of illegal voting by aliens by immigration authorities during investigation of applicants for U.S. citizenship. Even though illegal voting could have made the alien ineligible for U.S. citizenship, the disqualification has been consistently waived. Therefore, the penalty in the law against illegal voting could be likened to a paper tiger.

Reports periodically surface about persons who are called for jury duty on the basis of voter registration rolls declining to serve on the basis that they are non-citizens. In one prominent case earlier this year a person who did in fact serve on a jury later notified the judge that she was not a U.S. citizen.

There is reason to believe that some illegal aliens applying for driver's licenses deliberately, rather than accidentally, seek voter registration. This is due to the fact that the employer sanctions law adopted in 1986 to deter employment of illegal aliens allows a voter registration card to be used as one of the documents that establishes the employee's identity. That document, plus a Social Security card, is all that is necessary to establish work eligibility. Thus, the fact that some non-citizens register to vote is not necessarily a harmless misunderstanding of the rules, as immigrants' rights groups contend.

The only control against noncitizens registering to vote is a required statement in the application form that the registrant is a U.S. citizen. With more than 20 million foreign-born residents who are not U.S. citizens in the country, including an estimated 11 to 13 million illegal residents, the potential for non-citizens voting is enormous given the ease of registration and lack of screening at the time of voting. That fact, combined with the razor-thin election margins of recent years suggests that there is the very real possibility that non-citizens have affected the outcomes of elections.

If the United States wants to prevent fraudulent voting, procedures must be adopted to verify the eligibility of individuals when they register, and then to verify the identity of voters when they vote. There must also be a heightened dedication to prosecute those who fraudulently register and vote. If there is no real penalty for illegal voting, it is unreasonable to expect that an 'honor system' to keep ineligible persons from voting will be effective.

It is worth noting, that with the passage of Proposition 200, Arizona is was the first state to implement such measures. Approximately 32 other states are considering similar legislation.

Conclusion

The potential for illegal immigration has grown at a rapid pace as the number of non-citizen residents - both legal and illegal - has soared and registration to vote is done without verification of U.S. citizenship. The recent wave of demonstrations around the country by aliens demanding amnesty has forcefully brought the magnitude of the problem home to the American public.

The American public is also increasingly aware of the issue of voter fraud. Recent comments by California Congressional candidate Francine Busby that "you don't need papers to vote" along with the sharp criticism leveled at her in response are further indicators that the problem has a real impact. It is entirely fitting that we take time now to examine our nation's election laws and debate what reforms are necessary to secure the integrity of the franchise.

Protecting our election process against fraud is vital to assuring the American public that their interest in our democratic form of government is protected. It undermines the principle of the rule of law to allow the opportunity to vote on people who are not legally entitled to have it. The size of the illegal alien population has become so large and the impediments to illegal voting are so few that this issue should no longer be ignored by this nation's policymakers.

[1] The National Immigration Law Center in April 2003 listed the following states as accepting ITINs for driver's license purposes: Kansas, Kentucky, New Mexico, North Carolina, Pennsylvania, Rhode Island, and Utah (see www.nilc.org).

[2] John Fund's

Political Diary, Wall Street Journal, October 23, 2000. "Voter fraud has become a bigger problem since the 1993 federal Motor Voter law required states to allow people to register to vote when they get a driver's licenses; 47 states don't require any proof of U.S. residence for enrollment."

[3] On September 26, 1996, California's Secretary of State ordered county voter registrars not to permit non-citizens to vote in the November 1996 elections, after it was revealed that 727 non-citizens in Los Angeles county had filled out the voter registration form attached to the driver's license application under the new "motor voter" law.

[4] "Fraud Roundup," United Press International, January 26, 2001.

[5] "Putnam Opposed Voting Reform Act," Lakeland, Florida Ledger, December 17, 2001. Rep. Adam Putnam (R-FL) is quoted: "Now we find that one of the guys that flew into the buildings in New York had voted in Florida," (referring to the Sept. 11 terrorist attacks on the World Trade Center towers). "Think about it," he said. "You are told you are entitled to public assistance and then almost in the same breath asked if you want to register to vote. Now, if you think that registering to vote is tied to getting assistance or to getting your driver's license, you are going to say, 'Yes.'"

[6] "Ineligible Voters May Have Cast a Number of Florida Ballots," Washington Times, November 29, 2000.

[7] Washington Times, November 29, 2000.

[8] "Illegal Voters," Honolulu Advertiser, September 9, 2000.